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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/692,135 | 10/23/2003 | Robert Thomas Dran | RD0001 | 2161 |

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EXAMINER

BAXTER, GWENDOLYN WRENN

ART UNIT PAPER NUMBER

3632

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,135

Applicant(s)

DRAN, ROBERT THOMAS

Examiner

Gwendolyn Baxter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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This is the second Office Action for application serial number 10/692,135, Apparatus to Secure the Mouth of a Bag Open for Sliding Debris into the Bag filed October 23, 2003.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21, 22, 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,031,948 to Groth et al.. The present invention reads on Groth as follows: Groth teaches an apparatus comprising a generally rigid self supporting first member or support loop (30) forming a continuous D-shaped loop. A second member or retaining loop (20) forms a continuous D-shaped loop and is adapted to matingly receive the first member along substantially the entire periphery of the first member in a generally parallel orientation to each other with an entire periphery of the flexible bag proximate the mouth sandwich there between. The first and second members are completely removable from each other. The first and second members have complimentary cross sections that snaply lock together when pressed against each other to secure the portion of the bag sandwiched there between.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groth in view of U.S. Patent No. 6,679,462 to Valdez. Groth teaches the limitations of the base claim, excluding the second member or the retaining loop including one or more hook members.

Valdez teaches an apparatus comprising a generally rigid self-supporting first member or support loop (301) and a second member or retaining loop (201). The first member forms a continuous loop. The second member includes one or more hook members (206). The hook member is adapted to latch against the first member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the apparatus as taught by Groth to have incorporated the hook members as taught by Valdez for the purpose maintaining engagement and firm securement of the opening of the trash bag (col. 5, lines 20+).

Claims 23 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groth in view of U.S. Patent No. 5,836,553 to Bergaila. Groth teaches the limitations of the base claim, excluding concave or convex members.

Bergaila teaches at least one side of the first member (18) parallel to the direction of motion when the two members are press fitted together is one of concave or convex (70) and at least one interior side of the second member (12) corresponds to the at least

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one side of the first member is the other of the concave and convex (66). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the apparatus as taught by Groth to have incorporated the protrusion and groove as taught by Bergaila for the purpose of snap into mating and locked position thus trapping and holding the bag (col. 6, lines 9+).

Claims 25, 26, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groth in view of U.S. Patent No. 5,275,490 to Loebbert. Groth teaches the limitations of the base claim, excluding protrusion and depression.

Loebbert teaches the first member (2'') having at least one of a protrusion (16, 16') and a depression formed on at least one side thereof. The at least one interior side of the second member has the other of at least one of the protrusion and the depression (17, 17'). The other of the protrusion and the depression corresponds to the at least one of the protrusion and depression. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the apparatus as taught by Groth to have incorporated the protrusion and groove as taught by Loebbert for the purpose of locking the retaining member and the supporting member together.

Response to Arguments

Applicant's arguments with respect to claims 21-32 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Palmer 4,787,584 teaches a retaining and supporting members.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

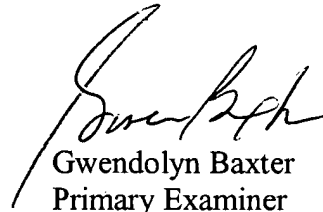
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 571-272-6814. The examiner can normally be reached on Monday-Wednesday, 8:00am -5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272- 6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gwendolyn Baxter
Primary Examiner
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June 21, 2005